

**IOWA RACING AND GAMING COMMISSION
MINUTES
JULY 29, 2010**

The Iowa Racing & Gaming Commission (IRGC) met on Thursday, July 29, 2010 at Stoney Creek Inn and Conference Center, Johnston, Iowa. Commission members present were Greg Seyfer, Chair; Toni Urban, Vice Chair and members Andrea Harrison and Paul Hayes. Commissioner Kate Cutler was absent.

Chair Seyfer called the meeting to order at 8:30 AM and requested a motion to approve the agenda. Commissioner Harrison moved to approve the agenda as presented. Commissioner Hayes seconded the motion, which carried unanimously.

Chair Seyfer moved to the approval of the minutes from the June 3, 2010 Commission meeting. Commissioner Urban moved to approve the minutes from June 3, 2010 as submitted. Commissioner Harrison seconded the motion, which carried unanimously.

Chair Seyfer moved to announcements and called on Jack Ketterer, Administrator of IRGC. Mr. Ketterer provided the following information regarding upcoming meetings:

- August 26, 2010 – Riverside Casino & Golf Resort, Riverside, IA (Submissions due by August 12, 2010)
- September 2010 – No Meeting
- October 7, 2010 – Hotel Julien Dubuque, Dubuque, IA (Submissions due by September 23, 2010)
- November 10, 2010 – Stoney Creek Inn, Johnston, IA (Submissions due by October 27, 2010)
- December 2010 – No Meeting

Mr. Ketterer noted that the November meeting is being held on a Wednesday due to the Veteran's Day holiday on Thursday.

Mr. Ketterer provided a brief synopsis of his medical leave which caused him to be out of the office for approximately three weeks.

Chair Seyfer moved to the Rules before the Commission. Brian Ohorilko, Director of Gaming, advised the Commission members that the rules before them for final adoption were the same ones they reviewed and approved for Notice of Intended Action at the meeting held in Council Bluffs in April. He noted that there had been no changes and respectfully recommended approval for final adoption.

As there were no questions regarding the rules, Chair Seyfer requested a motion. Commissioner Hayes moved to approve the rules as presented for final adoption. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 10-70)

Chair Seyfer moved to the contract approval portion of the agenda and called on Riverside Casino & Golf Resort (Riverside). Joe Massa, former General Manager, introduced Dan Franz as the new General Manager for the Riverside property. Mr. Franz has been with the property for approximately five years and was the Controller.

Mr. Franz presented the following contracts for Commission approval:

- 7G Distributing, LLC – Name Change to Previously Approved Vendor
- Hawkeye Foodservice Distribution – Food
- Lyon County Resort and Casino, LLC – Service Agreement (RP)

As there were no questions concerning the contracts, Chair Seyfer requested a motion. Commissioner Harrison moved to approve the contracts as submitted by Riverside. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 10-71)

Chair Seyfer moved to the contracts submitted by Lyon County Resort & Casino (Lyon County). Dan Kehl, Chief Executive Officer, advised that the facility will be doing business as the Grand Falls Casino Resort. He noted that Mr. Massa has joined Kehl Management as the Chief Operating Officer and will be overseeing both properties.

Mr. Kehl presented the following contracts for Commission approval:

- AAA Pools – Construction – Swimming Pools
- Allied Construction Services – Construction – Access Floors
- Allied Construction Services – Construction – Operable Partitions
- Altorfer, Inc. – Construction – Emergency Generators
- American Structural Metals, Inc. – Construction – Structural Steel Material
- APEX – Construction – Cementitious Fireproofing
- Brockway Company, Inc. – Construction – Mechanical
- Engineering America, Inc.- Construction – Water Storage Tank
- F. M. Acoustical Tile, Inc. – Construction – Acoustical, Wood Fiber & Linear Wood Strip Ceilings
- Fluidyne Corporation – Construction – Wastewater Treatment Facility
- Grazzini Brothers & Company – Construction – Tiling & Granite Stair Components
- Heartland Glass Co. – Construction – Aluminum Entrances, Storefronts, Auto Entrances, Windows
- Link Strategies – Consulting – Consulting on Referendum (RP)

- Low Tide, LLC – Aircraft Dry Lease (RP)
- Lyon County, IA – Match for Iowa DOT Rise Grant for Resort Entrance
- Midwestern Mechanical – Construction – Fire Suppression
- Millard Lumber, Inc. – Construction – Rough Carpentry Hotel Framing
- Molin Concrete Products Co. – Construction – Precast Structural Concrete Material
- Myrl & Roy's – Construction – HMA Paving
- Reliance Electric – Construction – Electrical
- Riverside Casino & Golf Resort, LLC – Service Agreement (RP)
- Sands Drywall – Construction – Drywall & EIFS
- Schelling Construction, Inc. – Construction – Finish Carpentry Installation
- Schindler Elevator Corporation – Construction – Elevators
- Seedorf Masonry, Inc. – Construction – Masonry
- Story Construction – Construction – Architectural Precast Metal, Structural Steel Erection, Misc. Dc. Metal Fabrications, Architectural Aluminum Scr. Labor
- TSP – Construction – Building Foundations
- TSP – Construction – Concrete Slabs/Toppings
- Joel & Lorna Stevens – Land Purchase
- Report on Construction Timetable

Mr. Kehl provided a brief description of the process for selecting the companies that are awarded contracts for various aspects of the construction. He stated that they put all of the bid packages on the websites the construction industry utilizes to view upcoming construction opportunities. On the last posting, there were bids from ten different states, and they called several Iowa contractors about bidding on the various projects as well. Two pre-bid meetings were held on-site prior to the letting of the bids. Upon opening the bid packages, the bids are reviewed to insure the company is able to provide bonding, and the Statement of Qualifications is reviewed. Mr. Kehl advised that if the low bidder is not an Iowa bidder, the Iowa bidder is contacted and asked if he can meet the low bid provided they are qualified to do the project. Some are able to meet the lower bid; some can not. He indicated that they are finding it is a long travel distance for a lot of the bidders. A lot of the construction companies have down-sized and are working more local jobs. Mr. Kehl indicated they were disappointed they were not able to utilize more Iowa vendors. He noted that a lot of the contracts have been given to South Dakota entities, which allows them to show South Dakota that they will be a good neighbor.

Commissioner Urban voiced concern over a number of the contracts; stating that she understood the need to utilize contractors from South Dakota and Minnesota. Specifically, she asked about the contract for the granite, noting that they had started out with a company from Burlington, the same one used for the Riverside project. She noted that no other Iowa companies bid on this aspect of the project, and asked why, stating that the contract is worth \$1.3 million. Mr. Kehl stated that he felt the answer lay in his previous comments; that a lot of companies have down-sized due to the lack of construction taking place. He stated that Larry Reinschmidt is an investor in both

Riverside and Lyon County, and has made several phone calls to Mr. Kehl in an attempt to get the job; however his bid is significantly higher than the companies located in the area. He associated the higher cost with the travel distance between Burlington and northwest Iowa.

Commissioner Urban expressed her opinion that there surely were companies in Des Moines, Council Bluffs or other locations that could have bid on the project. Mr. Kehl stated that he did not know why additional companies did not bid; that he can only take the bids that are submitted. He reiterated that they do place personal phone calls to Iowa companies that they are aware of.

Commissioner Urban noted that the contractors were willing to negotiate. Mr. Kehl concurred; stating that it is a good time to build a casino, but is not sure it's a good time to open one.

Commissioner Harrison asked if there were other websites other than their own where the bids were posted. Mr. Kehl indicated there were three different sites utilized; one of them was the Dodge Report. He advised that most involved in the construction industry subscribe to these web sites to find work and new projects. Commissioner Harrison asked if they had also utilized newspaper advertising as a form of communication. Mr. Kehl answered in the negative.

Commissioner Hayes noted that almost \$7 million in work had been awarded to contractors from South Dakota. Mr. Kehl stated that the Democratic candidate for Governor of South Dakota held a press conference at the building site and indicated that if he is elected as Governor he is going to pursue getting a casino in Sioux Falls. Mr. Kehl pointed out that South Dakota has failed to elect a Democratic Governor for a substantial number of years. Mr. Kehl stated that the new name for the facility better represents the greater Sioux Falls area and region; noting that the Sioux Falls region encompasses all of southwest Minnesota, South Dakota and northwest Iowa. This provides an opportunity to show that they are good neighbors.

Commissioner Harrison asked how many comments, if any, have been received from Minnesota. Mr. Kehl indicated that they have not heard much out of Minnesota.

Hearing no further discussion concerning the contracts or the project, Chair Seyfer requested a motion. Commissioner Hayes moved to approve the contracts as submitted by Lyon County. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 10-72)

Chair Seyfer called on Catfish Bend Casino (CBC). Jerry Baum, Chief Operating Officer, presented the following contracts for Commission approval:

- Southeast Iowa Regional Riverboat Commission – Payment to Not-for-Profit License Holder

- Aristocrat Technologies, Inc. – Participation Games and New Slot Machines
- WMS Gaming, Inc. – Participation Games and New Slot Machines
- Bally Gaming, Inc. – Purchase of Slot Machines
- W.R. Faeth Wholesale – Purchase of Bar Inventory - Cigarettes
- Amsan – Purchase of Cleaning Supplies
- Comcast/Onmedia – Purchase of Advertising
- Fidler Printing – Purchase of Print Advertising
- Fort Madison Bank and Trust – ATM and Banking Relationship (RP)
- Golden Eagle – Purchase of Bar Inventory – Beer
- Hy-Vee – Purchase of Bar Inventory – Liquor
- Winegard Realty – Purchase of Shared Items (RP)

Commissioner Hayes asked about the fees referenced in the contract with Ft. Madison Bank and Trust. Mr. Baum explained they are for ATM machines; the bank holds CBC's line of credit, and because the facility wanted to utilize ATM machines, the contract was submitted as a related party contract.

Commissioner Harrison asked Mr. Baum how the facility can better provide services to the patrons by having the ATM available, other than convenience. Mr. Baum stated that it is a convenience for the patron; that casinos are utilizing ATM machines more to reduce the number of checks being handled. Commissioner Harrison asked if there are fees attached to the use of the ATM machine. Mr. Baum answered in the affirmative.

Hearing no further questions concerning the contracts, Chair Seyfer requested a motion. Commissioner Harrison moved to approve the contracts as submitted by CBC. Commissioner Hayes seconded the motion, which carried unanimously. (See Order No. 10-73)

Chair Seyfer called on Wild Rose Emmetsburg (WRE). Amy Rubel, General Manager, submitted the following contracts for Commission approval:

- Imagine This – Customer Give-Aways and Promotions
- Lakes Print – Printing and Advertising
- Shuffle Master, Inc. – Equipment and Game Lease
- Konami Gaming – Equipment and Game Lease
- WMS Gaming – Equipment and Game Lease

As there were no questions concerning the contracts, Chair Seyfer requested a motion. Commissioner Urban moved to approve the contracts as submitted by WRE. Commissioner Hayes seconded the motion, which carried unanimously. (See Order No. 10-74)

Chair Seyfer called on Ameristar Casino. Monty Terhune, the new General Manager, expressed his pleasure at returning to Iowa after a 12 year absence. He presented the following contracts for Commission approval:

- Cintas – Linen Rental/Uniform Purchase
- Global Surveillance – Digital Surveillance Equipment

Commissioner Harrison noted that the Cintas contract indicates the company is the only one that specializes in casino uniforms. Mr. Terhune stated that Ameristar took a significant amount of time in selecting fabrics/materials that team members would find comfortable. He advised that contracts with Cintas had been approved previously; that there was some confusion as to the magnitude and scope and timing of when the changing of the uniforms would take place. Mr. Terhune attributed some of that to the turnover in the general manager position and the lack of continuity. He stated that he had addressed that matter in the short amount of time he has been at the property and does not believe it will be an issue going forward.

Commissioner Harrison stated that she raised the issue because of the Commission's emphasis on utilizing Iowa vendors when possible, and there are Iowa companies that do have casino uniforms available. Mr. Terhune indicated that would be taken into consideration going forward.

Hearing no further discussion concerning the contracts, Chair Seyfer requested a motion. Commissioner Harrison moved to approve the contracts as submitted by Ameristar. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 10-75)

Chair Seyfer called on Argosy Casino-Sioux City (Argosy). Kees Eder, General Manager, presented the following contracts for Commission approval:

- Reinhart Food Service – Food Products
- Farnert Bocken – Vending Machine Products – Tobacco & Food

As there were no comments or questions concerning the contracts, Chair Seyfer requested a motion. Commissioner Urban moved to approve the contracts as submitted by Argosy. Commissioner Hayes seconded the motion, which carried unanimously. (See Order No. 10-76)

Chair Seyfer called on Diamond Jo (DJ). Scott Smith, Assistant General Manager, presented a contract with Critical Systems, Inc. for a preventative maintenance program for the UPS System.

As there were no comments or questions concerning the contract, Chair Seyfer requested a motion. Commissioner Urban moved to approve the contract as submitted by DJ.

Commissioner Hayes seconded the motion, which carried unanimously. (See Order No. 10-77)

Chair Seyfer called on Wild Rose Clinton (WRC). Tom Timmons, Vice President of Operations for Wild Rose Entertainment, presented the following contracts for Commission approval:

- Midwest Lumber Museum – Sale & Purchase of Real Estate Property
- Konami Gaming, Inc. – Purchase of 20 Slot Machines and 20 IGT TITO Licenses

Chair Seyfer asked Mr. Timmons to provide a brief description on the sale of the property. Mr. Timmons stated the property being sold is property Wild Rose Entertainment “inherited” when they purchased the property from the Kehl family, and is located 1-2 miles from the original location of the boat. The buildings previously housed a car dealership; WRC has utilized the property for storage over the years. Mr. Timmons advised Wild Rose did own additional property adjacent to the property under discussion, and it was sold to the sawmill museum approximately 2 years ago under a similar transaction. The museum approached Wild Rose asking to purchase the remaining property.

Hearing no further comments or questions concerning the contracts, Chair Seyfer requested a motion. Commissioner Harrison moved to approve the contracts as submitted by WRC. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 10-78)

Chair Seyfer called on Mystique Casino. Roger Hoeger, Assistant General Manager, submitted the following contracts for Commission approval:

- City of Dubuque – Additional Real Estate & Payments to City and Non-Profit
- IKON Financial Services – Copy Machine Leases & Service Agreements

Hearing no comments or questions concerning the contracts, Chair Seyfer requested a motion. Commissioner Harrison moved to approve the contracts as submitted by Mystique. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 10-79)

Chair Seyfer called on the Iowa Greyhound Association (IGA) regarding their request to withdraw funds from the Bluffs Run/IGA Escrow Account. Jerry Crawford, legal counsel, requested the Commission’s approval to utilize \$5,000.00 from the escrow account to have an update completed on a study initially conducted in 2001 by Dan Otto, a professor at Iowa State University. He provided the following historical information in support of the request: On November 15, 2001, the IGA requested approval to use \$7,500 from the escrow account for the initial study to be performed by Professor Otto. He noted that Lorraine May, legal counsel for Bluffs Run, was present and did not raise any objections to the request. The IGA advised the Commission that the study would be

distributed to elected officials, in the IGA's newsletters and used in brochures and publications and to the news media. Mr. Crawford pointed out that the Commission unanimously approved the IGA's request to use \$7,500 for the completion of the study. He stated there are only two differences between the previous and current request: In 2001, the request for funds was made from the podium by Tom Timmons, the Executive Director of the IGA; and secondly, Harrah's has been involved in the effort to get the Iowa Legislature to eliminate greyhound racing in Iowa. He stated that the greyhound industry, according to Professor Otto, employs over 1,000 Iowans. Mr. Crawford advised that the uses for the Otto study are the same today as when the Commission gave its unanimous consent in 2001. He requested the Commission's approval of the request.

Ms. May provided the following historical background information on the establishment of the escrow fund: The fund was established in 1989 by a Decision issued by David Blair, which stated there was to be \$4 million in escrow for the sole purpose of supplementing purses. She stated that some dichotomy has occurred; money placed in the fund by Bluffs Run has to be used for purse supplements; however, the income (interest, dividends) can be used for other purposes. The decision further stated that the terms of the escrow fund are to be negotiated between the parties and approved by the Commission. While concurring that the first study was completed in 2001, Ms. May advised that there was no agreement between the parties at that time nor was there any approval by the Commission with regard to the purposes for which the income could be used. It is her opinion that the situation is entirely different this time around. In 2006, the parties agreed that "No portion of the escrow fund may be used to lobby or support lobbying efforts or for payment of legal fees." Ms. May stated that provision, as approved by the Commission in a purse supplement agreement, was not in place in 2001. Secondly, there is great lobbying going on in front of the Legislature by both parties. The previously quoted provision was specifically included in the purse supplement agreement to address that possibility. Ms. May advised that the agreement, as agreed to by IGA, was that the funds can not be used to either lobby or support lobbying efforts. Based on Mr. Crawford's previous comments, it is Ms. May's belief that the IGA intends to use the study to support their lobbying efforts by providing it to public officials, which would be in direct contradiction of the agreement as approved by the Commission. Ms. May requested that the Commission deny the IGA's request to withdraw funds from the escrow account for the study.

Chair Seyfer called for any questions regarding the previous presentations. Hearing none, he requested a motion. Commissioner Hayes stated that he would like more time to study the issues presented. Commissioner Harrison agreed. Chair Seyfer asked Mr. Ketterer if this was an issue the Commission could defer until the next meeting. Mr. Ketterer answered in the affirmative, and recommended a motion to that effect.

Commissioner Hayes moved to defer action on the IGA's request to withdraw \$5,000.00 from the Bluffs Run/IGA escrow account until the August Commission meeting. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 10-80)

Chair Seyfer moved to the distribution of the Dog Racing Promotion Fund pursuant to Iowa Code §99D.12(2)C, and called on Christine Dorchak, President of Grey2K USA. Ms. Dorchak distributed a copy of her remarks, which are attached and incorporated in their entirety. She advised that Grey2K USA is an independent, non-profit organization that does not have any position on the issue of gambling, but does take issue with the cruelty of greyhound racing and those organizations, such as the IGA, which use taxpayer funds in order to promote a political agenda. Ms. Dorchak requested that the Commission suspend further distribution of statutory dog racing promotion fund money to the IGA for the following reasons:

- The IGA engages in political activity.
- It has a record of using awarded monies for political purposes.

Ms. Dorchak stated that the above two facts make the IGA ineligible to receive the promotion fund under both prongs of the statutory definition in Iowa Code §99D.12. She pointed out that records indicate the IGA uses the funds for meeting expenses, mileage, telephone, and for the newsletters. She advised that since at least 2003 the newsletters have included legislative updates, provide a schedule of IRGC meetings, and the contact information for the Commission. Additionally, the March 2010 newsletter encouraged members to contact their legislators and the Governor to defeat legislative efforts to end live racing. Ms. Dorchak read an excerpt from her printed remarks regarding the July 2010 newsletter. Ms. Dorchak stated that the above facts make it very clear the IGA newsletter and the IGA are involved in political activity to protect the interests of its members. She advised that the newsletter also seems to prompt political contributions to the same candidate on the same day by IGA members. Ms. Dorchak concluded her remarks by stating the cruelty of dog racing should not be rewarded by more money from the statutory promotion fund; that the use of taxpayer funds for political purposes should no longer be tolerated by the Commission.

Mr. Crawford requested the Commission's approval of IGA as the recipient of the Dog Racing Promotion Fund. He advised that Ms. Dorchak was incorrect when she stated that taxpayer funds are being used in Iowa for greyhound racing in Iowa. Further, Mr. Crawford stated that he wished Ms. Dorchak had come to Iowa during the legislative session when the Legislature was considering one of the most far reaching and aggressive puppy mill bills in any state in the nation to insure the humane treatment of all animals, and particularly dogs; the way they are raised, sold, and their treatment in general. He advised that the legislation affected thousands of dogs. He noted that Don Avenson, the IGA's lobbyist, supported the legislation.

Regarding Ms. Dorchak's comments concerning the IGA newsletter, Mr. Crawford stated that they plead guilty. The newsletters contain news, and have occasionally included references to legislative activity; by their count, that has been 18 paragraphs out of the last 600 pages of the newsletter. He stated the IGA also pleads guilty to encouraging people to vote; he wondered how many other organizations are guilty of also encouraging

individuals to vote. Mr. Crawford noted they don't encourage members to vote for a specific person; just to get out and vote.

Mr. Crawford stated that in future dog racing promotion fund applications the IGA will apportion out of the request the use of any promotion fund dollars that go for providing legislative updates.

Chair Seyfer asked Mr. Crawford what the IGA's annual budget was. Mr. Crawford asked if he meant just the promotion fund money or overall. Chair Seyfer clarified that he was asking for the overall budget. Mr. Crawford asked if he wanted the 2% check off included. Chair Seyfer answered in the affirmative. Mr. Crawford deferred to Jim Quilty, an associate. Mr. Quilty stated that he did not have the numbers available either. He noted that the promotion fund is approximately \$24,000. Chair Seyfer asked for a ballpark figure. Mr. Quilty indicated he did not have any idea, but would be happy to provide the information later in the day or the following day. Mr. Crawford stated that he would estimate it to be in the area of \$200,000.

Commissioner Urban, referencing Mr. Crawford's comments on the puppy mill legislation, asked if the greyhounds were exempt under the bill. Mr. Crawford answered in the negative, noting that the Department of Agriculture inspects the farms regularly and is on site on a regular basis. Commissioner Urban stated that it was her understanding that the greyhounds were exempt under the bill passed by the Legislature. Mr. Quilty stated that the first draft of the bill did include an exemption for greyhound operations; however, Mr. Avenson, acting on behalf of the IGA, had the clause removed. It is his belief that the final legislation signed into law places greyhound operations under greater inspections and scrutiny. Mr. Crawford clarified that the IGA did not request the exemption contained in the initial draft; however, when they saw the exemption, the IGA did request that the exemption be removed from the legislation. He advised that the Commission could confirm the above facts by checking with the Iowa Department of Agriculture or the Humane Society of the United States.

Commissioner Urban asked if Senator Matt McCoy was the sponsor of the legislation. Mr. Quilty answered in the affirmative. Commissioner Urban stated that she had questioned Senator McCoy regarding this particular issue, but had not received a response. Mr. Quilty stated that he was confident in his answers; the exemption was there in the first draft, was removed following a request from Mr. Avenson, and the final bill did not exempt greyhound racing. Mr. Crawford advised that the IGA received thank you notes from other animal rights organizations that did come to Iowa to participate in the debate because the IGA's attitude was so different from what they had encountered in other states.

Commissioner Harrison stated that the amount of funds dedicated to the newsletter seems to be high; that from 2003 to 2007 the amount goes as high as \$11,000 in some cases. She asked if that seemed high in relation to the other costs listed; that the newsletter appears to be the highest expense. Mr. Crawford advised that the newsletter is the

primary method of communicating with the members; that it is sent to over 1,000 people and is often 16 plus pages long. He noted that mail and printing costs have increased. He stated that the newsletter is sent out quarterly. Mr. Quilty noted that while the Commission's numbers are correct, the percentage of money from the dog promotion fund allocated to the newsletter has been declining; it has been as high as 54%, and last year it was approximately 25%. He advised that the bulk of the funds are used to cover the expenses of their booth at the Iowa State Fair for the duration of the fair.

Commissioner Harrison, returning to the costs for the newsletter, stated that with all of the technology available today, that the costs could be drastically reduced. Mr. Crawford advised that it is possible the IGA has received similar suggestions in the past; however, it is also possible that not everyone has a computer. He noted the newsletter also contains schedules and other information that members like to refer back to, so the newsletter is not necessarily a one-time scan kind of thing. Mr. Crawford stated that he understood Commissioner Harrison's concerns and would pass them on. Mr. Quilty advised that the newsletters are archived on the IGA's website.

Commissioner Urban asked Mr. Quilty to provide the Commission with a copy of the legislation referenced in her earlier comments. Mr. Quilty indicated he would do so.

Hearing no further questions for Mr. Crawford or Mr. Quilty, Chair Seyfer called for any other discussion. Commissioner Hayes stated that the level of political activity is negligible, and he is not concerned about the newsletter being utilized to encourage individuals to vote. Chair Seyfer concurred, indicating that the primary purpose of the newsletter is current events and the activities of the IGA. He stated that he did not feel the Commission has the ability to determine if it is political. Commissioner Hayes noted that he has used the website to review the newsletters.

Commissioner Harrison stated that she also agreed with the previous comments regarding the newsletter and the information provided. She stated that the newsletter was an excellent manner in which to keep members informed.

Hearing no further comments, Chair Seyfer requested a motion regarding the distribution of the Dog Racing Promotion Fund. Commissioner Hayes moved to approve the distribution of the Dog Racing Promotion Fund to the IGA subject to compliance with the following contingencies:

1. The recipient shall provide an evaluation of the agreement(s) with, and performance by, the investment manager annually and consider soliciting and evaluating new proposals if they are under performing. This evaluation should be provided in an annual audit of the Escrow Account(s) by an independent audit company. The audit should cover activity from January 1, 2010 through December 31, 2010, and be submitted to the Iowa Racing and Gaming Commission by April 1, 2011.

2. The cost of the annual audit of the Escrow Account(s) shall be paid from the Escrow Account Fund(s).
3. Investment agreements should be for one-year terms subject to renewal conditions approved by the Commission. Provide a report on the status of the investment agreements.
4. Requests for proposals and all other correspondence should include a copy to IRGC and IWRA.
5. The recipient shall disclose any potential related parties to the Commission.
6. Investment funds shall not be withdrawn from the account(s) until the Commission has approved contracts or expenses. If events occur which no longer require expenditure of funds, the funds will be immediately returned to the Escrow Account(s) and not deposited in any other account(s).
7. The recipient shall have and maintain written minutes of all meetings and include copies to the IRGC and IWRA.
8. In the event of arbitration, the recipient shall ensure availability to the arbitration committee so that decisions are provided to the Commission by November 1, 2010.

Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 10-81)

Chair Seyfer called on Prairie Meadows Racetrack & Casino (PMR&C). Gary Palmer, General Manager; Ann Atkins, Vice President of Operations; and Derron Heldt, Director of Racing, were present to address questions.

Mr. Heldt presented the request for approval of the 45-day plan for the upcoming harness meet, which commences on October 1.

Commissioner Hayes asked if there would be any horses for the meet. Mr. Heldt advised that there is not a signed contract between PMR&C and the Iowa Harness Horsemen's Association (IHHA).

Chair Seyfer asked where the matter stands and where PMR&C is proposing to go. Mr. Palmer stated that PMR&C has not heard from the IHHA since July 1st. He reiterated that PMR&C's position is a 10-day live meet at PMR&C with a purse of \$550,000. Additionally, PMR&C would either give IHHA \$1 million for purses at the county fairs if the current track surface is not removed; however, if the track surface is removed, the IHHA would receive \$750,000 for the county fairs. Mr. Palmer stated that PMR&C has received a bid for removing the track surface if that is the manner in which the IHHA wishes to proceed. He stated that it would be PMR&C's recommendation to not remove the track and give IHHA \$1 million; PMR&C would just pack the track surface this year. Mr. Palmer provided the following reasons for the recommendation:

- The thoroughbred people have requested that the track surface not be removed; it messes up the track surface for the live meet the following year.

- PMR&C feels it would be worthwhile to try packing the track this year.

He reiterated that PMR&C has not heard from the IHHA and does not know which way they want to proceed.

Mr. Ketterer asked Mr. Heldt if the stall applications that have gone out included an indication that the track would be packed, or if he would have the opportunity to indicate that to any participants that may come for the meet. Mr. Heldt advised that at this time PMR&C has not done anything with stall applications, condition sheets or books for the harness meet.

Mr. Ketterer advised that if PMR&C does decide to pack the track surface, they should be prepared to present information to the Commission that the decision would not raise any concerns with regard to track safety. Secondly, he stated that when stall applications are sent out, there should be an indication that the track will be packed so that any horsemen traveling from a distance do not arrive at the facility expecting the track to look like it did in previous years.

Chair Seyfer asked Mr. Palmer if the contract with McAninch Corporation is something that would occur with or without the issue of the harness races. He stated that the contract indicates it is for racetrack surface maintenance. Mr. Palmer answered in the negative.

Chair Seyfer asked if PMR&C would utilize the contract whether or not they came to an agreement with the IHHA on how they want the track to be prepared. Mr. Palmer stated that PMR&C is prepared to have a 10-day live harness meet; they have the officials in place.

Mr. Ketterer, noting that PMR&C submitted a contract for the McAninch Company to perform racetrack maintenance, stated that if PMR&C advises the Commission today that they are going to pack the track for the harness meet, then the McAninch contract would not be needed. Mr. Palmer indicated that was correct.

Chair Seyfer read the following staff recommendations, which are tied to the approval of the 2010 45-day plan for the upcoming Standardbred meet:

- The immediate written notification of any change in racing official positions.
- The completion of necessary DCI backgrounds.
- Continuation of all import/export simulcast contracts being reviewed and approved by IRGC staff.
- Prior notification of any schedule changes: race days, post times, or the number of races.

Chair Seyfer requested a motion to approve the 2010 Standardbred meet with the above conditions. Commissioner Hayes so moved. Commissioner Harrison seconded the motion, which carried unanimously. (See Order No. 10-82)

Chair Seyfer asked when McAninch would perform the racetrack surface maintenance. Mr. Heldt asked if the motion just approved meant PMR&C, notwithstanding the conditions just read, could proceed with a Standardbred meet for 10 days with a purse of \$550,000 and run the meet on a packed track. As requested, they would be making a presentation at the August Commission meeting as to the safety of a packed track for the Standardbred meet.

Chair Seyfer asked if the McAninch contract could be deferred until the August meeting. Mr. Ketterer advised that since the Commission has approved the 45-day plan, and PMR&C is indicating that they intend to run the meet on a packed track, PMR&C could withdraw the contract with McAninch if they desired. Mr. Palmer advised that time is running short to get this project on the contractors' schedule; the contractors would need to know soon if PMR&C is going to move forward with removing the track surface. He stated that due to the lack of any communication from IHHA, PMR&C would recommend packing the track. Mr. Palmer went on to state that if IHHA contacted PMR&C on Monday and the parties reached an agreement, Mr. Palmer indicated PMR&C could still change directions and have the track surface removed.

Commissioner Hayes suggested approving the contract, and then it would be up to PMR&C whether or not they utilized the contract. Chair Seyfer indicated that would be taken up in the order it appeared on the agenda.

Chair Seyfer moved to the hotel update. Mr. Palmer stated the PMR&C Board met the previous day, which coincided with the expiration of the 60-day extension granted to Kinseth Hotel to obtain the necessary financing to build the hotel. He stated it is the Board's intent to proceed with the construction of the hotel. Mr. Palmer advised that they are in the process of reviewing RFPs from banks, and are close to choosing the bank that they want to negotiate with for the loans. The PMR&C Board believes they can hire a management team to get started on a "brand" under a two-year contract, and then PMR&C would take over the hotel. It is the Board's intent to expedite this process and get things moving as fast as they can. The original plan was to have the hotel started prior to the referendum and winter set in. Mr. Palmer noted the original plan was to have the hotel operator obtain the financing to build the hotel, and then PMR&C would finance and build the parking ramp. He stated that PMR&C can not finance the building of the hotel and the parking ramp at the same time. He requested that PMR&C be allowed to place their emphasis on the hotel at this time, and after the hotel is up and running for a few years, they would begin the process for the construction of the parking ramp.

Mr. Ketterer asked Mr. Palmer if PMR&C acknowledged the need for additional parking at the facility. Mr. Palmer stated that PMR&C could use additional parking about four days a year, and feels that if they do the hotel without the parking ramp that it will not

have an impact on business. Mr. Ketterer stated that his question was a general one - that they acknowledge the need for additional parking; he understands PMR&C can not afford to construct both at the same time. He asked if the banks that had received the RFPs for providing the financing for the hotel had expressed interest. Mr. Palmer answered in the affirmative. It is their intent to move cash handling process to the selected bank. PMR&C is assuming they will need a loan of approximately \$20 million.

Mr. Ketterer, noting that PMR&C faces the obstacle of distributions made to governments and other charities, the non-profit status, and referendum requirements, indicated he was curious as to why/how PMR&C believes they can obtain the necessary funding while Kineth Hospitality, a private, successful company with a chain of hotels, is unable to obtain the financing. Mr. Palmer indicated that it may have been due to leverage; he does not know what Kineth's debt service is, and banks are requiring a larger amount of equity when issuing loans at this time. He stated that no other hotel chains expressed an interest. Mr. Palmer noted that the facility is debt-free, and is doing fairly well at this time; and believes the banks will be comfortable in providing the necessary financing after the referendum for eight years, but will not go any longer than that.

Commissioner Hayes asked Mr. Palmer how much the Meadows' addition cost. Mr. Palmer advised that the top dollar was \$60 million, but the project came in at about \$52 million. Commissioner Hayes asked about the projected cost of the hotel. Mr. Palmer stated that PMR&C believes they will have to borrow approximately \$21 million. Commissioner Hayes asked if the Meadows was added to the facility without borrowing a substantial amount of money and if it was paid off. Mr. Palmer answered in the affirmative. Commissioner Hayes suggested that PMR&C should carefully examine their borrowing capacity to determine what the amount actually is, and not just preclude the parking ramp because the banks won't lend all of the necessary funds today. He stated that PMR&C has a lot of opportunities and has proven they have the ability to add a substantial addition without borrowing a significant amount of money. Furthermore, PMR&C does not know what their agreement with Polk County will look like. It may be that it will be favorable to expanding the capacity at PMR&C and improving the facility. Mr. Palmer stated that the parking ramp would remain on the Board's radar; they just want to remain financially viable in the current economy. He noted that when the Meadows was added to the facility, the economy was much better and PMR&C was experiencing increased revenues and sales annually. Mr. Palmer stated that even though revenues are down, the PMR&C Board feels this is the right time to proceed with building a hotel on the property.

Commissioner Urban noted that PMR&C never intended to construct the parking ramp at the same time as the hotel. Mr. Palmer indicated that was correct; they did not want to disrupt the flow of traffic with constructions projects on the north and south sides of the facility. Additionally, the upcoming referendum is another sticking point with the banks and limits how much money the banks are willing to lend and the length of the loan.

Commissioner Urban stated that it will be another year before the Commission sees a hotel. Mr. Palmer stated that if PMR&C is able to get the banking issue resolved in the next few weeks, they plan to move forward as quickly as possible. The plans are done; the design is started. Commissioner Urban asked if PMR&C had borrowed \$10 million for the connection currently being built to connect the hotel to the current facility. Mr. Palmer answered in the negative; he noted that they have a \$10 million line of credit but have not had to use it. The current work is being paid for out of cash flow.

Commissioner Harrison asked when work on the hotel would commence. Mr. Palmer stated there is another Board meeting in two weeks and hopes they will be able to select a bank at that time. He reiterated that everything is in place. He indicated they should be able to provide a better update on the situation at the August Commission meeting. Mr. Palmer stated the PMR&C Board is anxious to put all the pieces together now that the deadline for Kinseth has passed. Commissioner Harrison asked what the earliest and latest dates were for commencing work on the hotel. Mr. Palmer indicated the earliest would be this fall and the latest would be first thing in the spring when work could begin on installing the necessary sewers and footings, etc. He indicated the City of Altoona is ready to install the sewers; but don't want to go to the expense if the project is not going to happen. He stated the goal is to start work as soon as possible.

Hearing no further discussion regarding the hotel, Chair Seyfer moved to the schedule of racing-related capital improvements. Mr. Palmer stated that they had submitted a five-year projected capital improvement plan; it includes racing and general maintenance items. He noted that the facility is going to be 25 years old. Mr. Ketterer noted that the highlighted areas relate to racing, and asked if the document had been prepared by PMR&C staff and submitted to the Board. Mr. Palmer answered in the affirmative. Ms. Atkins advised that the document before the Commission was approved during the previous budget year; a new year will be added at the commencement of the next budget year so that there is always a five-year plan.

Commissioner Urban advised that this kind of document is important to the Commission, and future licenses could be contingent upon improvements. She noted that it is important for Polk County to be made aware of what needs to be done at the facility. She asked what the replacement cycle is as the document before them does not provide that information. Noting that the building is approximately 25 years old, she wondered if some of the items would be taken care of and would not be seen again for another 20 years. Ms. Atkins used the barn and backside maintenance improvements as an example: There are 52 barns, so that will be an ongoing project as they only work on two or three barns per year. She stated that a lot of the projects are that way; that the Commission may see the same dollar amounts year after year. Commissioner Urban asked if the capital improvements listed were unusual; and whether the barn roofs have been replaced previously. Ms. Atkins advised that roofs have been replaced all along.

Commissioner Urban noted that she did not see anything about replacing the track on the list of capital improvements, nor has there been any discussion of it at recent meetings. She noted that the Commission did receive regular updates for a period of time. Ms.

Atkins stated that the materials used on the track don't fall under the capital plan; they are contained within the operating budget as they have to buy additional sand, dirt, or clay every year and every three to four years they buy a whole new mix from the supplier to replace the track. Mr. Palmer advised that PMR&C is scheduled to give an update on the track surface at the August Commission meeting. He indicated that a synthetic track is not included in the budget at this time.

Commissioner Harrison asked if the amounts shown for the barn maintenance improvements included the interior as well as the exterior. Ms. Atkins answered in the affirmative.

As there were no further questions regarding the schedule of racing-related capital improvements, Chair Seyfer moved to the approval of the ancillary agreement with the IHHA. As there is no signed agreement for the Commission to approve, Chair Seyfer moved to the next agenda item, the contract with McAninch Corporation for maintenance of the racetrack surface. He noted that the Commission decided in earlier discussions to approve the contract, providing PMR&C with the ability to utilize the contract if necessary. He requested said motion. Commissioner Urban moved to approve the contract with McAninch Corporation as submitted by PMR&C. Commissioner Hayes seconded the motion, which carried unanimously. (See Order No. 10-83)

Mr. Palmer stated that Ms. Atkins distributed copies of the Horse Racing Marketing study, which was provided to the PMR&C Board the day before. He indicated they would be happy to answer any questions the Commission may have at the August meeting. The marketing study on the casino side of the operations has not been completed at this time.

Chair Seyfer moved to Public Comment. Nancy Stillians, representing herself and WiserIowa, LLC, stated she heard a report on NPR that appeared to be a late-breaking addition to a story about the theft of a great amount of personal information that had something to do with dog racing and the Department of Agriculture. She was informed by another individual that there was something in the news sometime ago, but she felt the report she heard was about an incident that had occurred recently. Ms. Stillians stated that if that was the case, it would be relevant for there to be some kind of follow-up report on the matter.

Ms. Stillians stated that she worked as a program director for various state agencies under former Governors Ray and Brandstad. In observing the operations of various state agencies and boards pertaining to the use of state finances, she has become alarmed by what she sees as the lack of ethical memory pertaining to Iowa laws and culture. Ms. Stillians advised that she had volumes of data detailing the deterioration of ethics, the misuse of inflation in bonding, contracting, etc. She noted there are many hidden forces that shape decisions. Ms. Stillians stated that the Commission, of all the boards she has observed, is one of the most intelligent and is disposed to do good, referencing the very thorough manner in which they questioned the developer of the Larchwood facility.

Ms. Stillians stated that the Commission, more than any other Board, is responsible for cultural conditions in Iowa. She stated that racing is a scavenger industry; it sucks out the creativity and independence of businesses in and around it. She called dog racing tacky and inhumane; and noted that it is not profitable. She stated that the industry does nothing to enhance Iowa or for a majority of Iowans. Ms. Stillians stated there is no fiscal, cultural or intelligent defense of dog racing. She further stated that Boards and Commission must not keep having amnesia about the purpose and original laws and protections that are there.

Ms. Stillians urged the Commission to take a leap of purpose and address the whole thing from a different point of view; that they have the power to do that and that politically, some of the members are astute enough to do so.

Ms. Dorchak asked the Commission to reconsider its vote on the distribution of the greyhound promotion fund to the IGA. She referenced Commissioner Hayes' remark that there has been references made in the IGA's newsletters to legislative activity, but feels that it has been minimal. She pointed out that the statute prohibits all political activity. Chair Seyfer stated that the Commission has taken the action they feel is appropriate unless another Commissioner wishes to readdress the issue. No Commissioners indicated their desire to do so.

Chair Seyfer moved to Administrative Business and the approval of the regulatory fees for FY11. Karyl Jones, Director of Licensing/Administration, stated that the Commission gave staff approval to set the regulatory fees for FY11 provided they were brought back before the Commission for final approval. She advised that Mr. Ketterer did establish the fees once the DCI's portion was received. The fees were distributed to all of the facilities, and they began paying the FY 11 fees at the beginning of July. Ms. Jones requested the Commission's approval of the fees that are currently in place for FY11.

Hearing no comments or questions concerning the fees, Chair Seyfer requested a motion. Commissioner Harrison moved to approve the regulatory fees for FY11 as submitted. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 10-84)

Chair Seyfer moved to the election of the chair and vice chair. Mr. Ketterer took this opportunity to thank Mr. Seyfer for his service over the last two years as chair of the Commission. He noted that the Commission has an administrative rule that limits the chair to serving two consecutive years, and the Commission is required to meet every year in July for the election of the chair and vice chair for the upcoming fiscal year. Mr. Ketterer stated that Mr. Seyfer lead the Commission in an exemplary manner through a very difficult application process for new licenses; has always been available to staff, is always well prepared and has provided invaluable leadership. All of his decisions have been well-reasoned and thought out. In recognition of Mr. Seyfer's service as chair, Mr. Ketterer presented him with a plaque, with his gavel, which stated: Greg Seyfer – In

appreciation of your service as Chair of the Iowa Racing and Gaming Commission – July 17, 2008 – July 29, 2010”.

Chair Seyfer thanked Mr. Ketterer, stating that he was glad Mr. Ketterer was back in the office and able to present him with the plaque. He thanked the staff for everything they do for the Commissioners and especially for their efforts while Mr. Ketterer was out of the office.

Chair Seyfer called for a motion with regard to the Chair and Vice Chair. Commissioner Harrison moved to nominate Commissioner Urban to serve as Chair and Commissioner Hayes to serve as Vice Chair. Commissioner Hayes seconded the motion, which carried unanimously. (See Order No. 10-85)

Commissioner Seyfer handed the gavel to Chair Urban, who requested a motion to adjourn the meeting. Commissioner Seyfer so moved. Commissioner Harrison seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

JULIE D. HERRICK